

Remarks

Applicants respectfully request reconsideration of the application in view of the foregoing amendments and following remarks. Claims 1-34 are rejected. Claims 35-38 are added.

Claim Rejections – 35 U.S.C. § 102

Claims 1, 4-6, 8-11, 22, 23, 25-28, and 32 are rejected under 35 U.S.C. § 102(b) as anticipated by Khamis. Applicants respectfully submit the claims are allowable over the cited art. For a 102(b) rejection to be proper, the cited art must show each and every element as set forth in a claim. However, the cited art does not describe each and every element. Accordingly, Applicants request that all rejections be withdrawn.

Claim 1

Claim 1 is directed at a method for constructing a retaining wall and recites in part:

forming a concrete footing in the trench and the voids between adjacent blocks to better resist against outward sliding forces exerted by retained earth at the lowermost course, wherein at least a portion of the footing is formed from a single layer of concrete occupying space in the voids and space below the blocks.

Khamis does not teach or suggest “wherein at least a portion of the footing is formed from a single layer of concrete occupying space in the voids and space below the blocks” as recited by claim 1. Claim 1 stands rejected over Khamis. At column 11, lines 48-54 Khamis describes pouring concrete into a ditch, allowing the concrete to harden to form a leveling pad, placing a layer of mortar on the leveling pad, and then placing the first row of blocks over the layer of mortar. Subsequently, concrete can be poured in the voids in the blocks. Thus, Khamis does not teach or suggest a “single layer of concrete occupying space in the voids and space below the blocks.” Khamis instead describes multiple layers including a layer of concrete in the blocks, a layer of mortar below the blocks and the leveling pad below the mortar layer. The concrete poured into the voids does not extend into space below the blocks, as recited in claim 1.

For at least these reasons, claim 1 and its dependent claims, 2-11, and 34-38 are allowable over Khamis.

Claim 22

Claim 22 is directed at a method for constructing a retaining wall and recites in part:

positioning a plurality of retaining wall block assemblies side-by-side over the trench to form a lowermost course having a plurality of voids, wherein each block assembly comprises a plurality of interconnected blocks;

In column 11 Khamis does not teach or suggest “block assemblies” as recited by claim 22. Claim 22 stands rejected over Khamis. At column 11, lines 20-31 Khamis describes conventional precast blocks and preferred precast blocks. The blocks that form each course are unitary blocks, not “block assemblies” or a “plurality of interconnected blocks,” as recited by claim 22. There is no hint or suggestion in Khamis for forming a course of blocks from a plurality of block assemblies positioned side-by-side in the course.

For at least these reasons, claim 22 and its dependent claims, 23-24 are allowable over Khamis.

Claim 25

Claim 25 is directed at a retaining wall and recites in part:

a concrete footing having a lower portion located in a trench below the first course, wherein the lower portion comprises an upper surface having a groove; and
an upper portion located in the voids of at least the first course, wherein the upper portion comprises a downwardly extending projection that forms an interlocking connection with the groove of the lower portion.

Khamis does not teach or suggest “the upper portion comprises a downwardly extending projection that forms an interlocking connection with the groove of the lower portion” as recited by claim 25. Claim 25 stands rejected over Khamis. At column 11, lines 52-54 Khamis describes:

3. Place the first row of blocks over approximately a 3 cm layer of mortar (*i.e.*, the mortar is inserted between the top of the leveling pad and the bottom of the blocks).

Also, at column 11, lines 57-58, Khamis describes:

Pour concrete into each block's voids, preferably up to 15 cm below the top of the block (see FIGS. 1, 2, 18 and 19).

Thus, Khamis describes pouring concrete into block voids above a concrete leveling pad.

Khamis does not disclose a "groove," a "projection," or an "interlocking connection" formed between the projection and groove.

For at least these reasons, claim 25 and its dependent claims, 26-31 are allowable over Khamis.

Claim 32

Claim 32 is directed at a retaining wall and recites in part:

at least a first lower course of retaining wall block assemblies and a second upper course of retaining wall block assemblies, wherein each block assembly comprises a front block positioned at the front of the wall, an anchor block disposed in a generally parallel relationship with respect to the front block, and an elongated trunk block extending between and connected to the front block and anchor block, and wherein each course comprises a plurality of chambers defined between adjacent block assemblies;

Khamis does not teach or suggest "retaining wall block assemblies" as recited by claim 32. Claim 32 stands rejected over Khamis. At column 11, lines 20-31 Khamis describes conventional precast blocks and preferred precast blocks. Khamis does not disclose or mention a "front block," an "anchor block," or an "elongated trunk block" as recited by claim 32. In fact, Khamis does not mention "block assemblies" let alone block assemblies comprising "a front block positioned at the front of the wall, an anchor block disposed in a generally parallel relationship with respect to the front block, and an elongated trunk block extending between and connected to the front block and anchor block" as recited by claim 32.

For at least these reasons, claim 32 and its dependent claim 33 are allowable over Khamis.

Claim Rejections – 35 U.S.C. § 103

Claim 12

Claim 12 is directed at a method for constructing a retaining wall and recites in part:

forming a concrete footing in the trench and the voids to interconnect the lowermost course with the ground to better resist against outward sliding forces exerted by retained earth at the lowermost course, wherein the footing has a width that is less than the width of the course.

Khamis's description of making a ditch for forming a leveling pad teaches away from "the footing has a width that is less than the width of the course" as recited by claim 12. Claim 12 stands rejected over Khamis. At column 11, lines 44-45 Khamis describes that the "width of the ditch should be no less than the width of the first row of blocks." Requiring the ditch to be as wide as or wider than the blocks used to form the wall teaches away from the Applicant's method in claim 12. Khamis does not teach or suggest that "the footing has a width that is less than the width of the course." The prior art must be considered in its entirety, including disclosures that teach away from the claimed invention. (See MPEP § 2141.02.) Because Khamis teaches against practicing the method of claim 12, a person of ordinary skill in the art would not have found the claimed method to be obvious from Khamis.

Further, the Examiner has not established a *prima facie* case of obviousness. The Action has not provided an articulated reason or rational underpinning to support the rejection of claim 12. Instead, the Action merely states that the features of claim 12 are "considered [to be] minor modifications which would have been obvious to one of ordinary skill in the art." "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*KSR International Co. v. Teleflex Inc.*, 550 U.S. ____ (2007); See MPEP § 2143.01.) The conclusory statement that claim 12 recites features that would be considered obvious modifications is not sufficient to establish a *prima facie* case of obviousness under MPEP § 2143.01 and *KSR*.

For at least these reasons, claim 12 and its dependent claims, 13-21, are allowable over Khamis.

Conclusion

The present application is in condition for allowance and such action is respectfully requested. The examiner is requested to contact the undersigned if any issues remain concerning this application.

Respectfully submitted,

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